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Attorneys for Plaintiff

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

v.

RICARDO AYAR-AVALOS,

Defendant.

No. CR 05-00530 RMW

STIPULATION AND [PROPOSED]
ORDER EXCLUDING TIME

SAN JOSE VENUE

On August 18, 2005, the parties in this case appeared before the Court for an arraignment. After the defendant was arraigned on the indictment, Assistant Federal Public Defender Nicholas Humy explained to the Court that the government is in the process of obtaining the defendant's criminal history and that he needs to review the report before he can properly advise the defendant. Therefore, the parties requested that an initial appearance before the Honorable Judge Whyte be scheduled for September 26, 2005 at 9:00 a.m. In addition, the defendant, through his counsel, agreed to an exclusion of time under the Speedy Trial Act from August 18, 2005 to September 26, 2005. The parties agree and stipulate that an exclusion of time is appropriate based on the defendant's need for effective preparation of counsel.

Aug-19-05 11:08am From-

1 SO STIPULATED:

KEVIN V. RYAN
United States Attorney2
3 DATED: 8/23/05
SUSAN KNIGHT
Assistant United States Attorney4
5 DATED: 8/19/05
NICHOLAS P. HUMY
Assistant Federal Public Defender

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8 Accordingly, the Court HEREBY ORDERS that an initial appearance be scheduled for
9 September 26, 2005 at 9:00 a.m. before the Honorable Judge Whyte.

10 For good cause shown, the Court FURTHER ORDERS that time be excluded under the
11 Speedy Trial Act from August 18, 2005 to September 26, 2005. The Court finds, based on the
12 aforementioned reasons, that the ends of justice served by granting the requested continuance
13 outweigh the best interest of the public and the defendant in a speedy trial. The failure to grant
14 the requested continuance would deny defense counsel reasonable time necessary for effective
15 preparation, taking into account the exercise of due diligence, and would result in a miscarriage
16 of justice. The Court therefore concludes that this exclusion of time should be made under 18
17 U.S.C. §§ 3161(h)(8)(A) and (B)(iv).

18 SO ORDERED.

19
20 DATED: 8/24/05
PATRICIA V. TRUMBULL
United States Magistrate Judge